

Message Text

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PAGE 01 STATE 238678

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ORIGIN L-03

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SCS - MR. FINNEGAN (INFO)

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FM SECSTATE WASHDC

TO AMEMBASSY TANANARIVE

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E.O. 11652: N/A

TAGS: CASC, MA

SUBJECT: W/W REPPAS

REF: TANANARIVE 1640

1. PARA 7 REFTTEL SUGGESTS GOMR MIGHT REQUEST USG SEIZE ASSETS IN US OF REPPAS AND HIS FAMILY IF MALAGASY JUDGMENT NOT SATISFIED BY REPPAS.
2. SHOULD THIS POSSIBILITY BE RAISED AGAIN WE BELIEVE IT WOULD BE USEFUL FOR YOU TO DAMPEN ANY GOMR EXPECTATIONS IN THIS AREA.
3. THOUGH ISSUE OF ENFORCEMENT OF FOREIGN JUDGMENTS IS COMPLEX AREA OF LAW, IT MAY BE SUMMARIZED AS FOLLOWS:
 - (A) IF GOMR SEEKS TO COLLECT FINE AS RESULT OF CRIMINAL PROCEEDING OR UNPAID TAXES, IT WOULD ENCOUNTER GENERAL POLICY OF U.S. COURTS NOT TO GIVE EFFECT TO PENAL OR REVENUE LAWS OF FOREIGN STATE UNLESS SPECIFICALLY PROVIDED IN INTERNATIONAL AGREEMENT.
 - (B) IF GOMR WISHED TO PROCEED AGAINST REPPAS' PROPERTY IN CALIFORNIA (IF ANY EXISTS) TO ENFORCE JUDGMENT FOR MONEY DAMAGES IN MALAGASY CIVIL PROCEEDING, EFFORT WOULD BE LIMITED OFFICIAL USE

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PAGE 02 STATE 238678

GOVERNED BY LAW OF CALIFORNIA, WHICH HAS ADOPTED UNIFORM

FOREIGN MONEY JUDGMENTS RECOGNITION ACT. THIS LAW PROVIDES FOR STATE COURT TO DENY REQUEST FOR ENFORCEMENT IF IT FINDS ABSENCE OF PROCEDURAL DUE PROCESS IN FOREIGN CIVIL PROCEEDING OR THAT FOREIGN JUDGMENT IS REPUGNANT TO STATE'S PUBLIC POLICY. (SOME COURTS IN U.S. HAVE INDICATED THAT THE STRINGENT DUE PROCESS REQUIREMENTS OF 14TH AMENDMENT MUST BE MET WHILE OTHERS HAVE SUGGESTED LESS STRINGENT TEST.) PROCEEDINGS AGAINST PROPERTY OF REPPAS' RELATIVES IN CALIFORNIA WOULD FAIL FOR ABSENCE OF PERSONAL JURISDICTION IN MALAGASY PROCEEDING OVER PERSONS OTHER THAN REPPAS. IN SHORT THERE WOULD BE A NUMBER OF BASES UPON WHICH GOMR'S EFFORTS COULD BE RESISTED BY REPPAS' CALIFORNIA COUNSEL.

4. FYI IN LIGHT OF FOREGOING, GOMR EFFORTS TO PROCEED AGAINST REPPAS' PROPERTY IN U.S. (IF ANY EXISTS), WOULD NOT SEEM PRODUCTIVE COURSE OF ACTION. END FYI KISSINGER

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